

UNITED STATES DISTRICT COURT

for the
District of Colorado

United States of America)

1. Ha Manh Do)

2. Hai Manh Do)

3. Nathan Toan Manh Do)

4. Richard Cross)

Case No. 11-mj-01157-BNB

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

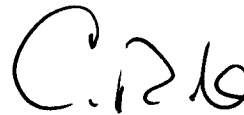
On or about the date of 10/13/2011 in the county of Denver in the _____ District of
Colorado, the defendant violated 21 U. S. C. § 841(a)(1), (b)(1)(A)(vii) and (b)(1)(B)(vii)
, an offense described as follows: 18 U.S.C. § 2

knowingly and intentionally possess with the intent to distribute more than 1000 marijuana plants, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

This criminal complaint is based on these facts:

See Affidavit attached hereto and herein incorporated by reference

☒ Continued on the attached sheet.



Complainant's signature

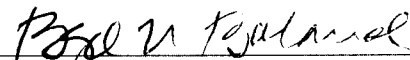
Charles R. Olachea Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: October 13, 2011

City and state: Denver, Colorado



Judge's signature

BOYD N. BOLAND
United States Magistrate Judge

Printed name and title

AFFIDAVIT

1. Charles R. Olachea, being first duly sworn on oath deposes and says:

I am a Special Agent with the Drug Enforcement Administration (DEA), Department of Justice, and have been so employed for approximately twenty-five (25) years conducting drug investigations. Specifically, I have initiated, developed and participated in a variety of investigations over the years that have included the following: Title III interceptions, complex conspiracy cases, undercover operations, marijuana cultivation, clandestine methamphetamine manufacturing, money laundering and interdiction operations. These investigations involved the importation, possession, transportation, distribution, and manufacturing of controlled substances, the cultivation of marijuana, and conspiracy to commit these offenses. Additionally, these investigations made use of a myriad of investigative tools, including, but not limited to, physical and electronic surveillance, confidential source (CS) recruitment and management, undercover transactions, the execution of search warrants, and the arrest and prosecution of drug traffickers.

2. During the course of these investigations, your affiant has spoken on numerous occasions with confidential sources, suspects, and experienced narcotics investigators concerning the methods and practices utilized by drug traffickers. Furthermore, your affiant has attended specialized money laundering, asset forfeiture, CS management, conspiracy, telecommunications exploitation training courses, and courses focused on the cultivation of marijuana. As a result, your affiant is experienced in the means and methods used by persons and drug trafficking organizations to purchase, store, and distribute drugs and the means and methods used to hide profits generated from those transactions. Additionally, I have debriefed numerous defendants and confidential sources knowledgeable in the indoor cultivation of marijuana and the use of hydroponics equipment to facilitate the

aforementioned cultivation. Moreover, I previously supervised and directed a successful “storefront sting” operation that targeted and subsequently prosecuted numerous drug traffickers involved in the illicit cultivation of marijuana that primarily used the hydroponics growing method.

3. Your affiant has participated in the investigation of the organization described in this affidavit since June 2011. As a result of the investigation, statements made to your affiant by other law enforcement personnel involved in this investigation, a review of reports of other agents, all of which your affiant believes to be reliable, your affiant is familiar with the facts and circumstances of this investigation and attests to all of the facts and information stated in each of the paragraphs herein.

4. On June 10, 2011, the Denver Police Department (DPD) Narcotics Unit, executed a state search warrant at 3885 Forest Street, Denver, Colorado (hereinafter referred to as the Subject Property) that resulted in the seizure of 1865 marijuana plants and a portion of the associated marijuana grow equipment. HA DO, his son, NATHAN DO and HAI DO (brother to Ha Do), were identified as the owners/operators of the marijuana grow at the Subject Property. No arrests were made at this time. Consequently, DEA Denver, in conjunction with the Denver Police Department (DPD), have continued the investigation of the DO family drug trafficking organization (DTO) and have reason to believe (set forth in this affidavit) that the DO’s continue to cultivate marijuana in or at the Subject Property. Thus, your affiant has probable cause to believe that there is a clandestine indoor marijuana grow operation currently located at the place known as: 3885 Forest Street, Denver, Colorado, described as a large warehouse that encompasses the southwest corner of Forest Street and East 39th Avenue. The main warehouse is constructed of red brick with reddish brown and tan-colored trim. On the west side of the main warehouse is an attached large metal

hanger-style building. This building is approximately 50' by 60' wide and runs the length of the main warehouse. This building has two large white in color rollup bay doors that face north along with a standard pedestrian entry door this is red in color. The hanger structure is yellowish/tan in color with reddish brown trim. The address numerals identified as "3885" are mounted on a reddish brown placard, black in color, and are approximately 6" tall. The placard is affixed to the brick over the southern-most east facing door that is labeled "Office." There is also a large tree standing business sign located on the northeast corner of the lot that identifies the following: "3885 Forest St. Cross Fire Graphics"

QUALIFYING INFORMATION

6. Your Affiant, based upon training, experience and participation in numerous marijuana cultivation investigations knows:

a. That marijuana cultivators purchase or acquire high-intensity discharge lights or bulbs including fluorescent lights and associated ballasts for placement in residences and businesses to replicate the outdoor environment in order to grow marijuana plants and corresponding buds for harvesting and subsequent distribution;

b. That marijuana cultivators must have water, fertilizer (nutrients) and a growing medium, either soil or hydroponics based, to assist the marijuana plants in growing to their full potential resulting in the flowering bud that contains tetrahydrocannabinol or THC, the psychoactive chemical or ingredient in marijuana that produces the mind-altering "high;"

c. That marijuana and/or cultivated marijuana, gives off a pungent and distinctive odor or smell that is often very strong and overpowering; thus, marijuana cultivators often purchase, use and

install air purification systems such as an ionizer, ozone generators and air filtering systems in an attempt to mitigate the marijuana smell emanating from their residences or businesses;

d. That marijuana cultivators often use household fans and other fans to ventilate, circulate and refresh the air in their indoor marijuana grow operation(s) located in residences and businesses in order to develop a healthier marijuana plant(s);

e. That marijuana cultivators often use large pots, plastic tubs and other reservoirs to hold water, chemicals and nutrients when watering or feeding their marijuana plants on a consistent basis;

f. That marijuana cultivators often hide and conceal their indoor marijuana cultivation activities in order to evade detection from neighbors and law enforcement;

g. That marijuana cultivators often modify the electrical system in their residences/businesses in order to accommodate and use the high-intensity discharge lights and ballasts needed to power and light a clandestine marijuana grow; that marijuana cultivators often divert power from outside transformers and breaker boxes for additional power usage; and that marijuana cultivators sometimes use mobile electrical generators to power the lighting systems in order to evade detection by not using excessive or abnormal in-home power consumption and;

h. That the use of these high powered light systems or bulbs, typically of a 1000-watt variety, consume excessive amounts of power or electricity resulting in high or excessive kilowatt hour usage or power consumption.

PROBABLE CAUSE

1) As previously stated, on the morning of June 10, 2011, DPD personnel, assisted by the Colorado Department of Revenue (CDOR), executed a state search warrant at the Subject Property and found the warehouse building to contain a highly sophisticated marijuana cultivation operation that consisted of over 1850 marijuana plants and a large amount of indoor marijuana growing equipment used to simulate, in a controlled manner, the outdoor growing environment to assist in the optimal cultivation and maturation of the marijuana plants. Moreover, DPD officers, along with your affiant and other DEA agents, discovered the building/warehouse to be divided into several large “growing” rooms and additional rooms used to hang, dry and store harvested and/or processed marijuana. The building also contained additional rooms used as office space and storage of cultivation equipment and other associated chemicals and “build-out” material. In sum, your affiant and other law enforcement personnel found the entire inside of the building to be purposed for the propagation and cultivation of marijuana.

2) Following the search of the Subject Property, DPD and DEA personnel disassembled the “grow” operation, seizing a total of 1865 marijuana plants, and also seizing a portion of the associated grow equipment that consisted of numerous grow lights with bulbs and reflectors, ballasts, a large trimmer machine, a marijuana press and a grinder. For clarification, not all of the grow lights and ballasts were seized in this warehouse, but were left in place due to the difficulty removing them from the high warehouse ceiling. Also seized from the Subject Property by DPD law enforcement personnel was over 36 kilograms (in excess of 70 pounds) of processed marijuana that was ready for sale and distribution.

3) During the disassembly of the grow operation, DPD and DEA personnel took random representative samples from a number of the seized marijuana plants for subsequent analysis by the DPD Crime Laboratory Bureau, Forensic Chemistry Unit, and by the DEA Western Regional Laboratory, respectively. On or about June 21, 2011, the DPD Forensic Chemistry Unit reported that the “green plant material” submitted for analysis by DPD personnel taken from the Subject Property “tested positive for marijuana (Cannabis).” Furthermore, on September 30, 2011, your affiant contacted the evidence custodian of the DEA Western Regional Laboratory and was told that the DEA Denver submitted “samples” of suspected marijuana in this case tested positive for marijuana.

4) At the time of entry, DPD personnel found the Subject Property to be occupied by NATHAN DO a/k/a NATHAN TOAN DO, DOB: 03-06-1990, and several workers or employees. Shortly thereafter, brothers HAI DO a/k/a HAI TOAN DO, DOB: 11-25-1966, and HA MANH DO a/k/a MANH DO HA a/k/a DO HA MANH, DOB: 09-01-1963, arrived at the Subject Property.

5) Shortly after entry, DPD Detective Teresa Driscoll, tasked with guarding the occupants of the Subject Property, engaged in general conversation with NATHAN DO that was not solicited. DO told DET. Driscoll that he was really proud of the [marijuana growing] operation and had previously recommended to his father, HA DO, the merits of investing in a medical marijuana business or dispensary. DO advised that he took his father to a dispensary the next day and his father was “sold” on the idea which prompted HA DO to actually purchase or invest in the aforementioned business. DO stated that his dad takes care of the business side of the operation and arranges for the delivery of the marijuana to the dispensary. DO added that he was in charge of the growing operation and supervised other employee growers he called “farmers.” DO advised that

operating costs for the Forest Street address (the Subject Property) alone totaled approximately \$50,000. DO indicated he was very excited about the operation's success and bragged to DET. Driscoll about some people coming from Canada to look at their operation. DO stated that the Canadians were interested in investing in the manufacture and sale of marijuana pills. In the conversation, DO informed DET. Driscoll about a new method of making hash called the "Bubble Method" which he described.

6) Later, DET. Driscoll informed your affiant that this information received from NATHAN DO was not solicited from her or any other law enforcement person on the premises. In addition, DET. Driscoll stated that DO was not under arrest at the time of their general conversation and that other law enforcement personnel were present including DO's uncle, HAI DO.

7) CDOR personnel (responsible for the regulation and enforcement of state medical marijuana laws) interviewed HA DO, HAI DO and NATHAN DO in regards to their function and roles with the marijuana cultivation operation on the premises. In summary, according to the DO's, they were operating an "Optional Premises Cultivation" (OPC) operation at the warehouse under the auspices of a corporation named EARTH'S MEDICINE, INC., and a "Medical Marijuana Center" (MMC) or dispensary located at 74 N. Federal Boulevard, Denver, Colorado. The DO's indicated that HA DO was the General Manager, HAI DO, the owner of the business (EARTH'S MEDICINE), and NATHAN DO, the marijuana cultivator or grower at the OPC. Furthermore, the DO's advised that they operated, aside from the aforementioned MMC and the OPC at 3885 Forest Street, the Subject Property: an OPC and "Medical Marijuana Infused Product Manufacturer" (MIP) operation at 4780 Holly Street, Denver, Colorado; a former OPC at 5627 Kendal Court, Arvada, Colorado; and another OPC at 124 Yuma Street, #2, Denver, Colorado. HAI DO told investigators

that upon the issuance of the “cease and desist” order by the City of Arvada for the OPC located at 5627 Kendal Court, Arvada, Colorado, HA MANH DO, and his brother HAI MANH DO used a real estate broker to locate and secure a new lease at another location to replace the Arvada cultivation site. According to HA MANH DO, their attorney oversaw this change and the DO’s, on behalf of their business Earth Medicine, Inc., believed everything was fine. HA MANH DO provided the contents of an email and a letter from the Department of Revenue in support of his contention that Earth’s Medicine, Inc. was in compliance with all the regulations regarding the operation of OPCs, and that their compliance was widely known. Investigators reviewing the documents, however, found that the documents produced by HA DO did not establish compliance with state law, and had no bearing on the federal violations of 21 United States Code, Section 841 under investigation.

8) Following the interviews and a CDOR licensing and background records check, CDOR Agent in Charge, Paul Schmidt, informed your affiant and DPD personnel that the EARTH’S MEDICINE cultivation operation at 3885 Forest Street, Denver, Colorado, was not in compliance with Colorado Revised Statutes Chapter 12, Section 43.3-103; in other words, neither the DO’s or the Subject Property at 3885 Forest Street, Denver, Colorado had a current or pending licensing permit to grow medical marijuana at the 3885 Forest Street location.

9) On July 15, 2011, your affiant, along with other DEA Denver and DPD personnel, interviewed a Source-of-Information (hereinafter referred to as SOI-1) regarding his/her former business dealings with the DO family. SOI-1 stated that he/she entered into a formal partnership with the DO’s after meeting with NATHAN DO at a place of business associated with the DO’s medical marijuana operations.

10) SOI-1 said he/she invested approximately \$40,000 into the Forest Street OPC operation in the form of licensing fees and equipping the warehouse location with grow equipment consisting of grow lights and other hardware grow accessories. SOI-1 said HA DO ran the overall operations of the DO's medical marijuana business and that NATHAN DO played a major role in the day-to-day operational activities of the business. SOI-1 indicated that HA DO's brother, HAI DO, worked at the EARTH'S MEDICINE dispensary in the evenings. In addition, SOI-1 stated that the DO's initially grew marijuana in their residences located in Lakewood and Aurora, Colorado, prior to opening their now defunct medical marijuana OPC in Arvada, Colorado.

11) SOI-1 advised that RICHARD CROSSE, DOB: 12-06-1962, owned the warehouse at 3885 Forest Street and was very interested in investing in the medical marijuana business with the DO's. CROSSE subsequently purchased 90% of the grow equipment for the marijuana grow operation in the warehouse and leased the equipment back to the DO's. Moreover, an agreement was made between the DO's and CROSSE that he (CROSSE) would receive \$400 per pound of marijuana sold from the cultivation operation. Additionally, the DO family paid 2/3 of the designated rent for the warehouse to CROSSE and that CROSSE absorbed the remaining 1/3. Furthermore, SOI-1 said CROSSE was fully engaged in setting up the warehouse and invested \$325,000 of his (CROSSE's) funds into the cultivation operation. SOI-1 noted that "lots of money went back and forth" between the DO's and CROSSE.

12) SOI-1 advised that he/she became to doubt the legitimacy of the DO's medical marijuana business when SOI-1 noticed that the DO's appeared to be actively avoiding [Colorado state] compliance requirements for the operation of the DO's medical marijuana business, particularly at

the warehouse operation at the Subject Property. Furthermore, SOI-1 believed the DO's were grossly under-reporting their marijuana proceeds to the state and/or CDOR.

13) SOI-1 stated that, in August 2010, he/she became aware of NATHAN DO illegally distributing marijuana at or from the Subject Property. SOI-1 said, at this time, he/she observed large unpackaged toy boxes in the back of the warehouse and subsequently queried NATHAN DO about the toys during a conversation with DO. DO advised SOI-1 that the empty toy boxes were being packed with marijuana and shipped to Chicago, Illinois. Moreover, in November 2010, SOI-1 said he/she observed two black males arrive at the Forest Street warehouse in an older model Cadillac with Illinois plates. SOI-1 stated that DO provided the black males with two large trash bags full of marijuana candy suckers that the SOI-1 believed was transported across state lines.

14) SOI-1, after seeing these illegal activities, confronted the DO's about their illicit and illegal drug transactions. This caused HA DO to fire SOI-1.

15) On September 29, 2011, at approximately 10:00 AM, DPD Detective Jim Reiva contacted Tim Chetwood, Manager of Transmission Parts, Inc., 5142 E. 39th Avenue, Denver, Colorado, a business adjacent to the DO's warehouse on Forest Street and 39th Avenue. DET. Reiva asked Mr. Chetwood if he saw any usual activity at the aforementioned warehouse next door (at the Subject Property). Mr. Chetwood informed DET. Reiva that he had seen people and vehicles come and go from the warehouse, primarily near the loading docks of the DO warehouse. Mr. Chetwood also advised, from time to time, he smelled a strong odor of marijuana emanating from this warehouse. At this time, DET. Reiva mentioned to Mr. Chetwood that there were several medical marijuana grow operations in the area and Mr. Chetwood stated that he was "certain" the strong marijuana odors he had smelled were coming from the building to the east (the Subject Property).

16) DET. Reiva asked Mr. Chetwood permission for DET. Reiva to enter the building containing the transmission business and received permission from him to enter the building. DET. Reiva walked from inside the transmission building to a fenced area between the DO warehouse at 3885 Forest Street and the transmission business. DET. Reiva told your affiant that once he entered the fenced area between the two buildings, he could smell the odor of marijuana emanating from louvered vents located on the west wall of the attached metal building of the DO warehouse. DET. Reiva added that while in this fenced area he noticed a portion of the west metal wall siding of the DO warehouse (the Subject Property) was damaged from the inside that caused the siding to somewhat buckle and protrude, producing a small gap. DET. Reiva walked near this gap in the wall of the warehouse and from training and experience, smelled the pungent odor of cultivating marijuana coming from the inside of the building via air escaping from the gap in the wall of the Subject Property.

17) In the early afternoon of September 29, 2011, DPD personnel observed an Asian male resembling HA DO, exit the warehouse on Forest Street, enter a gray Honda Pilot bearing Colorado tag 427-PAY, leave the area and drive to a building at 11975E. 40th Avenue, Denver, Colorado, which he entered utilizing a door key in his possession. At this location, DPD personnel observed this building to have signs for "Colorado Farms, Inc" on it with a "Dispensary Now Open" sign on the box truck parked in front of the building. A DMV records check by DPD personnel revealed the 2006 Honda Pilot is registered to MANH DO HA at 5335 W. Virginia Avenue, Lakewood, Colorado.

18) The next day (September 30, 2011), Mr. Chetwood contacted DET. Reiva and informed him that one of his employees observed a burgundy Toyota truck with a topper shell parked at the

DO warehouse. At this time, the employee saw people remove lights, described as large reflectors with long skinny light bulbs, from the Toyota pickup truck to the inside of the warehouse. Later in the evening, DPD surveillance personnel observed the aforementioned Toyota truck at the DO warehouse and found it to be bearing Colorado tag 374-FIV. A DMV records check by DPD personnel revealed the 2003 Toyota Tundra pickup truck is registered to DO HA MANH at 5335 W. Virginia Avenue, Lakewood, Colorado. Your affiant knows from training and experience that the aforementioned lights and reflectors observed by the employee were likely long fluorescent tube lights that many marijuana cultivators use to grow marijuana clones, seedlings and small vegetative (marijuana) plants. Your affiant also knows that fluorescent lights or lamps come in differing spectrums and lengths, usually between one (1) and twelve (12) feet in length. Moreover, your affiant reviewed the photographs taken of the DO's marijuana grow operation at the Subject Property on June 10, 2011, and found the DO's used the same described fluorescent lights and associated reflectors in the "nursery" room where they cultivated "clones" of marijuana or seedlings (small marijuana plants).

19) On October 3, 2011, at approximately 5:20 PM, DPD surveillance personnel established surveillance at the Subject Property and observed HA DO exit the warehouse, enter the 2006 Honda Pilot and leave the area driving the aforementioned vehicle. Shortly thereafter, surveillance personnel observed NATHAN DO with an unknown Hispanic male exit the Subject Property, enter a box van, drive to a house near the 3900 block of N. Lowell and then drive to the DO's marijuana OPC located at 124 Yuma Street, Denver, Colorado.

20) On October 4, 2011, at approximately 1:00 PM, DPD surveillance personnel again established surveillance at the Subject Property. Shortly thereafter, DPD officers observed an Asian

male, later identified as KHANG NGUYEN, DOB: 07-01-1978, exit the warehouse, take off his shoes, empty the dirt out of the shoes and then brush off his arms and legs. At this time, surveillance personnel observed NGUEYN to be wearing a State of Colorado marijuana employee license identification on a lanyard around his neck. In addition, surveillance officers observed a white 1996 Mitsubishi bearing Colorado tag ABY5714, registered to KHANG NGUYEN and LE THU T at 2825 W. Mexico, Denver, Colorado, parked near the location where NGUYEN was emptying his shoes.

21) At approximately 6:15 PM, surveillance personnel observed NATHANDO and KHANG NGUYEN exit the Subject Warehouse, enter separate vehicles and drive away. NGUYEN is observed driving his white Mitsubishi.

22) At approximately 6:34 PM, DPD District 2 uniformed officers conducted a traffic stop of NGUYEN's vehicle following traffic violations consisting of an illegal lane change and failure to activate turn signals. At this time, DPD Officer Tyson Worrell contacted the driver (KHANG NGUYEN) and was overwhelmed with the smell of fresh marijuana cultivation odors emanating from NGUYEN and his vehicle. Officer Worrell asked NGUYEN about the marijuana odor and NGUYEN subsequently told him that he (NGUYEN) had just gotten off work at a marijuana growing warehouse located at 39th and Forest Avenue. NGUYEN stated that he did not know the exact address of the warehouse but said Mr. HA owns the warehouse and it is where they grow the marijuana for the EARTH'S MEDICINE dispensary located near 1st and Federal Boulevard. NGUYEN advised that he worked all day at the warehouse and that the warehouse currently contains about 600 marijuana plants. NGUYEN was later advised of his traffic violation and the contact by DPD was terminated.

DATABASE & XCEL ENERGY CHECKS

23) A CCIC/NCIC/DMV database query conducted for your affiant by DEA personnel revealed that HA DO's Colorado driver's license showed his address to be 5335 W. Virginia Avenue, Lakewood, Colorado. A criminal history query revealed DO had previous arrests for assault/domestic violence and cruelty to animals. The aforementioned rap sheet also noted that DO was found guilty of the cruelty to animals misdemeanor charge and placed on probation.

24) The CCIC/NCIC/DMV database query regarding HAI DO revealed that DO's driver's license showed his address to be 2698 S. Sheridan Boulevard, Denver, Colorado. A criminal history query revealed DO was previously arrested by the United States Immigration and Naturalization Service (INS) for immigration violations. Furthermore, a Colorado Secretary of State records check revealed in September 2009, that HAI MANH DO filed with this office a corporation named NATURE'S CHOICE, INC., at 2698 S. Sheridan Boulevard, Denver, Colorado. This record also identified HAI DO has the registered agent of NATURE'S CHOICE at the aforementioned address. Furthermore, a "Statement of Trade Name of a Reporting Entity" filed by DO with the Colorado Secretary of State's office on November 2, 2009, reported that NATURE'S CHOICE is the true name of the corporation transacting business under the trade name of EARTH'S MEDICINE. Your affiant also found that HAI DO is involved or associated with several other businesses located in the Denver Metro area.

25) The CCIC/NCIC/DMV records check found that NATHAN TOAN MANH DO's driver's license showed his address to be 5335 W. Virginia Avenue, Lakewood, Colorado. Also, the criminal history query identified DO has being previously arrested for possession, manufacture, sale and distribution of a controlled substance in May 2008.

26) The CCIC/NCIC records check revealed that RICHARD LEO CROSSE was previously arrested for violating a court (protection) order in March 2007. This charge was later deferred and dismissed in June 1009. A Denver county assessor's records check revealed that RICHARD and JOAN CROSSE were the owners and is still the current owners of the warehouse (identified as the Subject Property) at 3885 Forest Street, Denver, Colorado. The aforementioned property record identified the CROSSE's address as 512 Sunshine Lane, Evergreen, Colorado, and the recording (purchase) date of the "Industrial – Warehouse," Parcel #0119400182000, at 3885 Forest Street, as April 19, 1994, with a purchase price of \$342,000. The record also reflected that the Subject Property is 18,901 square feet. Furthermore, a Denver government, personal property tax database check, revealed CROSSFIRE GRAPHICS INC., is also associated with the Subject Property. A Colorado Secretary of State records check revealed that CROSSFIRE GRAPHIC INC., currently "delinquent" and was formed on July 20, 1987 by RICHARD and JOAN CROSSE.

27) On July 22, and September 30, 2011, your affiant issued DEA administrative subpoenas to Xcel Energy requesting billing, subscriber and electric energy consumption information (kilowatt usage) for 3885 Forest Street, Denver, Colorado (the Subject Property). On or about July 27, and October 3, 2011, your affiant received the responses from Xcel Energy for the Subject Property. A review of the records by your affiant revealed the subscriber at the Subject Property from November 19, 2010 to the present (October 3, 2011) as EARTH'S MEDICINE with the owner identified as HAI DO. The record also reflected that CROSSFIRE GRAPHICS was the previous Xcel Energy subscriber at the Subject Property from January 1, 2010 to November 19, 2010. From training and experience, your affiant knows the kilowatt hours or power consumption associated with EARTH'S MEDICINE or expended, from November 19, 2010 to June 2011 at the Subject Property, was


consistent with a very large marijuana grow operation which law enforcement personnel found fully operational and partially seized on June 10, 2011. For instance, the kilowatt usage for the month (05-24 to 06-23-11) prior to the marijuana grow operation being seized, reflected the Subject Property using 41,200 kilowatt hours. The following month's kilowatt usage by the Subject Property reflected a dramatic decrease of power consumption to 11,120 kilowatt hours (which was due to law enforcement seizing a substantial portion of the DO's electrical grow lights and corresponding ballasts on June 10, 2011). Your affiant also noticed that from June 24, 2011 to September 22, 2011, the Subject Property's kilowatt usage has been for the most part on the rise with the last kilowatt usage (September 22nd) recorded as being 12,320 kilowatts hours. After reviewing the kilowatt records, your affiant, from training and experience, concluded that the DO's or the occupants of the Subject Property were again likely cultivating and/or in the process of cultivating marijuana and that the marijuana grow operation would be considerably smaller in size than the 1865 plant grow operation that was disassembled and seized from the Subject Property on June 10, 2011. Your affiant's experienced conclusion was later corroborated by KHANG NGUYEN, an employee of EARTH'S MEDICINE at the Subject Property, when he advised DPD traffic officers on October 4, 2011, that the warehouse at 39th and Forest Avenues housed approximately 600 marijuana plants.

28) On or about September 30, 2011, DPD SGT. Andrew Howard informed your affiant that a CDOR records check, both electronically and manually, revealed that the DO's and/or the Subject Property at 3885 Forest Street, Denver, Colorado, did not have a current or pending licensing permit to grow medical marijuana at this location.

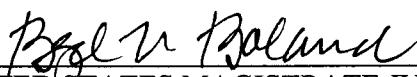
BASED ON the foregoing information and the "totality of the circumstances" identified in this affidavit, your affiant states that there is probable cause to believe that, on or about October 13, 2011, within the State and District of Colorado, the defendants, HA MANH DO, HAI MANH DO, NATHAN TOAN MANH DO, and RICHARD CROSS did knowingly and intentionally possess with the intent to distribute more than 1000 marijuana plants, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same. All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(A)(vii), Title 21, United States Code, Sections 841 (a)(1), (b)(1)(B)(vii) and Title 18, United States Code, Section 2. Your affiant respectfully requests that arrest warrants should be issued for these offenses.

Dated this 13th day of October 2011, at Denver, Colorado.

I HAVE READ the foregoing statement and the matters stated therein are true to the best of my knowledge and belief.


Charles R. Olachea, Affiant

SUBSCRIBED and SWORN TO before me this 13th day of October, 2011, at 8:50am, in the City and County of Denver, CO.


UNITED STATES MAGISTRATE JUDGE
DISTRICT OF COLORADO

DEFENDANT: HA MANH DO

YEAR OF BIRTH:

ADDRESS: Denver, Colorado

OFFENSE: Count One: Title 21 United States Code, Section 841(a)(1), (b)(1)(A)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 1000 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

Count Two: Title 21 United States Code, Section 841(a)(1), (b)(1)(B)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 100 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

LOCATION OF OFFENSE: Denver County, Colorado
(COUNTY/CITY/STATE)

PENALTY: Count One: NLT 10 years, NMT life imprisonment; \$4,000,000.00 fine, or both; NLT 5 year supervised release; and a \$100.00 Special Assessment Fee

Count Two: NLT 5 years, NMT 40 years imprisonment; \$2,000,000.00 fine, or both; NLT 4 year supervised release; and a \$100.00 Special Assessment Fee

AGENT: Special Agent Charles R. Olachea
Drug Enforcement Administration

AUTHORIZED BY: M.J. Menendez
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less over five days other

THE GOVERNMENT

X will seek detention in this case will **not** seek detention in this case

The statutory presumption of detention is or is **not** applicable to this defendant.

OCDETF CASE: Yes X No

DEFENDANT: HAI MANH DO

YEAR OF BIRTH:

ADDRESS: Denver, Colorado

OFFENSE: Count One: Title 21 United States Code, Section 841(a)(1), (b)(1)(A)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 1000 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

Count Two: Title 21 United States Code, Section 841(a)(1), (b)(1)(B)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 100 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

LOCATION OF OFFENSE: Denver County, Colorado
(COUNTY/CITY/STATE)

PENALTY: Count One: NLT 10 years, NMT life imprisonment; \$4,000,000.00 fine, or both; NLT 5 year supervised release; and a \$100.00 Special Assessment Fee

Count Two: NLT 5 years, NMT 40 years imprisonment; \$2,000,000.00 fine, or both; NLT 4 year supervised release; and a \$100.00 Special Assessment Fee

AGENT: Special Agent Charles R. Olachea
Drug Enforcement Administration

AUTHORIZED BY: M.J. Menendez
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less over five days other

THE GOVERNMENT

X will seek detention in this case will **not** seek detention in this case

The statutory presumption of detention is or is **not** applicable to this defendant.

OCDETF CASE: Yes X No

DEFENDANT: NATHAN TOAN MANH DO

YEAR OF BIRTH:

ADDRESS: Denver, Colorado

OFFENSE: Count One: Title 21 United States Code, Section 841(a)(1), (b)(1)(A)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 1000 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

Count Two: Title 21 United States Code, Section 841(a)(1), (b)(1)(B)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 100 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

LOCATION OF OFFENSE: Denver County, Colorado
(COUNTY/CITY/STATE)

PENALTY: Count One: NLT 10 years, NMT life imprisonment; \$4,000,000.00 fine, or both; NLT 5 year supervised release; and a \$100.00 Special Assessment Fee

Count Two: NLT 5 years, NMT 40 years imprisonment; \$2,000,000.00 fine, or both; NLT 4 year supervised release; and a \$100.00 Special Assessment Fee

AGENT: Special Agent Charles R. Olachea
Drug Enforcement Administration

AUTHORIZED BY: M.J. Menendez
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less over five days other

THE GOVERNMENT

X will seek detention in this case will **not** seek detention in this case

The statutory presumption of detention **is** or **is not** applicable to this defendant.

OCDETF CASE: Yes X No

DEFENDANT: RICHARD CROSS

YEAR OF BIRTH:

ADDRESS: Denver, Colorado

OFFENSE: Count One: Title 21 United States Code, Section 841(a)(1), (b)(1)(A)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 1000 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

Count Two: Title 21 United States Code, Section 841(a)(1), (b)(1)(B)(vii) and Title 18 United States Code, Section 2 - Distribution and Possession with Intent to Distribute 100 or more marijuana plants, regardless of weight, and did knowingly and intentionally aid, abet, counsel, command, induce, or procure the same

LOCATION OF OFFENSE: Denver County, Colorado
(COUNTY/CITY/STATE)

PENALTY: Count One: NLT 10 years, NMT life imprisonment; \$4,000,000.00 fine, or both; NLT 5 year supervised release; and a \$100.00 Special Assessment Fee

Count Two: NLT 5 years, NMT 40 years imprisonment; \$2,000,000.00 fine, or both; NLT 4 year supervised release; and a \$100.00 Special Assessment Fee

AGENT: Special Agent Charles R. Olachea
Drug Enforcement Administration

AUTHORIZED BY: M.J. Menendez
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

X five days or less over five days other

THE GOVERNMENT

X will seek detention in this case will **not** seek detention in this case

The statutory presumption of detention **is** or **is not** applicable to this defendant.

OCDETF CASE: Yes X No